

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-19 are pending in this application, Claim 19 having been added, and Claims 1-5, 7, 9, 14-16, and 18 having been presently amended. Support for amended Claims 1-5, 7, 9, 14-16, and 18 can be found, for example, in the original claims, drawings, and specification as originally filed.¹ No new matter has been added.

In the outstanding Office Action, Claims 9 and 18 were rejected under 35 U.S.C. §101; and Claims 1-18 were rejected under 35 U.S.C. §103(a) as unpatentable over Kikuchi et al. (U.S. Patent Publication No. 2002/0010740; hereinafter “Kikuchi”) in view of Asahi et al. (U.S. Patent Publication No. 2002/0114455; hereinafter “Asahi”).

In response to the rejection of Claims 9 and 18 under 35 U.S.C. §101, Claims 9 and 18 have been amended to define a computer readable storage medium encoded with instructions which when executed by a computer cause a process to execute a method. MPEP 2106 IV.B.1(a) states that:

A claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory.

In view of the presently submitted claim amendments and foregoing comments, Applicants respectfully submit that Claims 9 and 18 define statutory subject matter. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §101 be withdrawn.

¹ See page 14, lines 23-28 and page 24, lines 14-18 of the specification.

In response to the rejection of Claims 1-18 under 35 U.S.C. §103(a) as unpatentable over Kikuchi in view of Asahi, Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Applicants' independent Claim 1 is directed to a communication apparatus including, *inter alia*:

... reception means for receiving a retrieval keyword, used to request contents, from an external device;

retrieval means for retrieving contents from a database based on the retrieval keyword received by the reception means;

page information generation means for generating page information including list information of contents retrieved by the retrieval means, and appending information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information; and

transmission means for transmitting the page information generated by the page information generation means to the external device.

Page 4 of the outstanding Office Action acknowledges that Kikuchi fails to describe appending information that displays whether or not page information is provided with a consecutive reproduction function of making an external device consecutively reproduce part of contents included in list information. In an attempt to remedy the above-identified deficiency of Kikuchi, the outstanding Office Action cites Asahi. However, Asahi fails to teach or suggest "page information generation means for generating page information including list information of contents retrieved by the retrieval means, and **appending information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information,**" as recited in Applicants' independent Claim 1.

Page 4 of the outstanding Office Action asserts that paragraph [0027] of Asahi describes Applicants' claimed "appending information" feature. However, paragraph [0027] of Asahi merely describes that an encoder 314 applies one or more encoding parameters to an input received from an encoding parameter generator 315 to produce one or more copies of encoded digital content. Asahi also describes that each successive copy of encoded digital content may be produced from a preceding copy of encoded digital content. Thus, Asahi at paragraph [0027] merely describes producing multiple copies of encoded digital content. Asahi does not describe appending information to page information including a list information of contents retrieved by the retrieval means, and that the appending information displays whether or not the page information is provided with a consecutive reproduction function making the external device consecutively reproduce part of the contents included in the list information. In other words, in Asahi, there is no displaying whether or not the page information is provided with a consecutive reproduction function.

Accordingly, Applicants respectfully submit that independent Claim 1 (and all claims depending thereon) patentably distinguishes over Kikuchi and Asahi.

Independent Claims 8 and 9 are directed to a communication method and a computer readable medium, respectively, and recite, *inter alia*,

...generating page information including list information of retrieved contents, and appending information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduced part of contents included in the list information respectively to the page information....

As described above, Asahi fails to describe information indicating that part of respective contents included in a list information can be consecutively reproduced and thus does not teach or suggest the features of independent Claims 8 and 9. Thus, Applicants respectfully submit that independent Claims 8 and 9 patentably distinguish over Kikuchi and Asahi.

Independent Claim 10 is directed to communication apparatus including, *inter alia*:

...page information reception means for receiving page information including the list information of contents and information indicating that part of respective contents included in the list information can be consecutively reproduced, which are transferred from the external device in answer to the request information requesting the list information,

As described above, Asahi fails to describe information indicating that part of respective contents included in a list information can be consecutively reproduced and thus does not teach or suggest the features of independent Claim 10. Thus, Applicants respectfully submit that independent Claim 10 (and all claims depending thereon) patentably distinguishes over Kikuchi and Asahi.

Independent Claims 17 and 18 are directed to a communication method and computer readable storage medium, respectively, including the step of

...receiving page information including the list information of contents and information indicating that part of respective contents included in the list information can be consecutively reproduced, which are transferred from the external device in answer to the request information requesting the list information....

As described above, Asahi fails to describe information indicating that part of respective contents included in a list information can be consecutively reproduced and thus does not teach or suggest the features of independent Claims 17 and 18. Thus, Applicants respectfully submit that independent Claims 17 and 18 patentably distinguish over Kikuchi and Asahi.

Accordingly, Applicants respectfully request that the rejection of Claims 1-18 under 35 U.S.C. §103(a) as unpatentable over Kikuchi in view of Asahi be withdrawn.

In order to vary the scope of protection recited in the claims, new Claim 19 is added. New Claim 19 finds non-limiting support in the disclosure as originally filed, for example at page 4, lines 11-26.

Therefore, the changes to the claims are not believed to raise a question of new matter.²

Since Applicants have not substantively amended the claims in response to any rejection on the merits, the further rejection of these claims based on newly cited prior art in the next communication *cannot properly be considered a Final Office Action.*

Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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² See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."